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In re Application of	:	
MOON, et al.	:	
Application No.: 10/566,407	:	
PCT No.: PCT/GB04/03260	:	DECISION ON PAPERS
Int. Filing Date: 28 July 2004	:	
Priority Date: 28 July 2003	:	UNDER 37 CFR 1.42
Attorney Docket No.: MCLRK-009US	:	
For: CAPACITIVE SENSOR	:	

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. The declaration filed 18 August 2006 is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

**BACKGROUND**

On 28 July 2004, applicant filed international application PCT/GB04/03260, which claimed priority to an earlier application filed 28 July 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 10 February 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 January 2006.

On 26 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a First Preliminary amendment.

On 16 June 2006, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 18 August 2006, applicant filed the response including an executed declaration. The present filing includes certification that the mailing was deposited for mailing on 16 August 2006 and it therefore considered timely filed.

### **DISCUSSION**

37 CFR 1.42 When the Inventor is Dead, states, in part:

“In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.”

The declaration submitted on 18 August 2006 does not satisfy the requirements under 37 CFR 1.497(b)(2) which provides that:

(2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

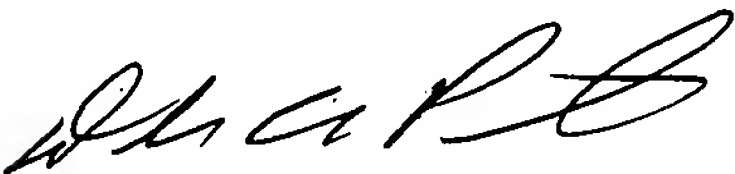
The present declaration only provides this information for the deceased inventor. In addition, while applicant has provided documentation showing the two legal representatives, the declaration does not identify the legal representatives by name as is required. As such, it is not possible to accept applicant's request for status under 37 CFR 1.42 at this time.

### **CONCLUSION**

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice.**

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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